UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,018	02/01/2001	Eric G. Suder	16312-P005US	7490

7590 08/15/2005

Kelly K. Kordzik
Suite 800
100 Congress Avenue
Austin, TX 78701

EXAMINER	
NGUYEN, HANH N	

ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SPE

Office Action Summary	Application No.	Applicant(s)	
	09/775,018	SUDER ET AL.	
	Examiner	Art Unit	
	Hanh Nguyen	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8-77* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *8-20,23-37,59-64 and 66* is/are allowed.

6)☒ Claim(s) *1-6,21,22,38-45,56-58,67-71 and 75-77* is/are rejected.

7)☒ Claim(s) *46-55 and 72-74* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/1/01&4/9/01*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 3, 5, 21, 22, 38, 39, 41, 43, 44, 45, 56, 67, 69, 71, 75, 76, 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al.(US Pat.5,751,791) in view of Verbeek (US Pat. 5,119,372).

Regards to claims 1, 22 and 67, Chen teaches a system comprising: a Hub (Fig.1a, 90), a multimedia server (Fig. 1a, 92), a telephony device coupled to the hub (Fig. 1a/102 or132, either LEC or PBX can be considered a telephony device), and a first network device coupled to the hub through the telephony device (Fig. 1a, 70a, 128). Chen discloses that the rate of data transmitted between terminal 70a (first network device) and LEC 102 (telephone) is 56 Kbps which is less than the rate transmitted after the LEC 102 (65 Kbps). However, Chen does not disclose the telephony device includes circuitry for throttling data sent from the first network device, wherein the throttling circuitry reduces a future amount of data from being transferred from the first network device if the amount of data exceeds a predetermined threshold.

Verbeek discloses, in fig.1, a network for transfering speech, computer data from computer TE 2-m to a multiplexer 1 (col.1, lines 35-45& col.5, lines 5-10). Fig. 2 discloses the multiplexer device (device 1) includes circuitry for throttling data (switching means 40 is a

blocking device, col.7, lines 30-35) sent from the first network device (restricting computer data sent from the TE 2-m via input line 4, see col.6, lines 20-35), wherein the throttling circuitry reduces a future amount of data from being transferred from the first network device if the amount of data exceeds a predetermined threshold (when buffer 32-1 is full indicated by a "buffer full" signal). Therefore, it would have been obvious to one ordinary skilled in the art to apply the blocking means 40 of Verbeek into the telephoen device of Chen in order to throttle data from being transferred from a computer terminal. The motivation is to prioritize voice transmission, increase rate transmission from the telephone and prevent data congestion.

Regarding claim 38, as ex plained in the rejection of claim 1, it is inherent that rate of voice transmission would increase when the data transmitted from the computer terminal is throttled.

Regarding claim 45, Chen does not disclose monitoring a predetermined level within a jitter buffer. Vebeek discloses, in fig.2, a buffer level is notified to a congest detector 34 by an indicator means 33 (monitoring a predetermined level in a jitter buffer). See col.5, lines 52-65.

Regarding claim 43, the limitation of this claim has been addressed in claim 1.

Claim 2 is rejected because Chen teaches a second network device connected to the hub, wherein data sent from the first network device is addressed for transmission to the second network device (Fig. 1a, 70c), the system in Fig. 1 is set up in such a way that enables device 70c to communicate with device 70a)

Claims 3, 5, 39, 41, 69 are rejected because all devices are all coupled together via an ISDN network, BRI, PRI.

Regarding claim 44, the limitation of this claim has been addressed in claim 1, 38.

Regarding claim 56, the limitation of this claim has been addressed in claim 1, 38.

Claim 21 is rejected because in Chen communication is realtime and the telephony device maintains the data rate at 56kbps.

Regarding claims 75 and 76, Chen discloses the telephone device 80 connects to network 88 via ISDN path 74. Therefore, the telecommunication network 88 is a circuit switch network or PSTN. A peripheral card adaptable for coupling to a telecommunications network is inherently coupled to the network 88.

Regarding claim 77, the limitation of this claim has been addressed in claim 1, 67.

Regarding claim 71, the limitation of this claim has been addressed in claim 1 and 67.

Claims 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Pat. 6,876,648 B1) in view of Verbeek (Pat. 5,119,372).

With regards to claim 57, Lee teaches an IP telephony device (Fig. 3) comprising: an input data port for receiving data (Fig. 3, input/output 14), wherein the data is addressed for transmission to a location other than the IP telephony device (Fig. 3, I/O 14 transmits data externally via hand set 10, col.4, lines 52-60); a speaker (speaker phone 12, fig.3); a microphone (a headset, fig.3); circuitry for communicating information to and from the IP telephony device (Fig.3, combination of mux 16, handset 10 and speakerphone 12); a circuitry for communicating audio information between speaker and the microphone (fig.3, mux 16). Lee does not disclose a circuitry for suffciently throttling the data so that the communication of the information can be performed real-time. Verbeek discloses in Fig. 2 a circuitry for throttling data (switching means 40 is a blocking device, col.7, lines 30-35) sent from the first network device (restricting computer data sent from the TE 2-m via input line 4, see col.6, lines 20-35), wherein the

throttling circuitry reduces a future amount of data from being transferred from the first network device if the amount of data exceeds a predetermined threshold (when buffer 32-1 is full indicated by a "buffer full" signal). Therefore, it would have been obvious to one ordinary skilled in the art to apply the blocking means 40 of Verbeek into the telephone device of Chen in order to throttle data from being transferred from a computer terminal. The motivation is to prioritize voice transmission, increase rate transmission from the telephone and prevent data congestion.

Claim 58 is rejected because the IP telephony device communicates using TCP/IP protocol (see fig.1).

Claims 4, 6, 40, 42, 68, 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Hung et al.(US pat. 6,760,429).

With regards to claims 4, 6, 40, 42, 68, 70, Chen fails to teach a TCP/IP network or the multimedia server and the telephony device communicating using IP protocol. The network in Chen is a packet network. However, it is not TCP/IP. Hung et al teaches an IP network with a telephony device and a multimedia sever communicating using TCP/IP protocol. It would have been obvious to one of ordinary skilled in the art to combine Chen with Hung for the purpose of sending multimedia messages over an IP network. The motivation being the use of a connection oriented network for multimedia communications.

Allowable Subject Matter

Claims 8-20, 23-37 and 59-64, 66 are allowed.

Claims 46-55 and 72-74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 46, the prior art fails to disclose the step of sending a congestion message from the telephone to the multimedia server when the audio information falls below the predetermined level.

Claim 72, the prior art does not disclose the sending circuitry will designate the mode level at a most aggressive mode as long as the congestion message is received within a specific time period.

Response to Arguments

Applicant's arguments with respect to claims 1-6, 21, 22, 38-45, 56-58, 67-71 and 75-77 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

Kim et al. (pat. 6678280 B1) discloses Voice packet transmission controll method in gateway system and device thereof.

Nakajima (Pat. 6839341 B1) discloses Device capable of Accommodating existing voice terminals.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-Friday from 8AM to 5PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 5712723088. The fax phone number for the organization where this application or proceeding is assigned is 5712738300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HANH NGUYEN
PRIMARY EXAMINER